



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333

March 27th, 1992

Minutes of the March 27th, 1992 meeting of the Commission on Governmental Ethics and Election Practices held in Room 214 of the State Office Building, Augusta, Maine.

Present: Outgoing Chair Paul K. McCann; Chairman-elect Robert P. McArthur; Members Gregory G. Cyr, Joseph B. Ezhaya, Richard G. Morton, Robert E. Tierney, Richard L. Trafton, Paul E. Violette; Commission Counsel William R. Stokes.

Chairman McCann called the meeting to order at 10:20 a.m. On behalf of Commission members, Mr. Trafton thanked outgoing Chair Paul McCann for his significant contribution to the Commission. Mr. McCann then introduced new members Richard Morton and Robert Tierney.

Next, under new business, Mr. Trafton placed in nomination the name of Robert P. McArthur of Waterville for Commission chair. In addition, the name of Alvin Moss was proposed at the request of Common Cause director Kenneth Hayes. Mr. Trafton then moved, and it was seconded, to cease nominations. Thereupon the Commission, by unanimous vote, elected Mr. McArthur to the position of chair. The chair-elect presided for the remainder of the meeting.

Under routine business, it was moved, seconded and voted to accept the minutes of the December 6th, 1991 meeting as submitted.

Next, under new business, members considered the lateness of registrations required to be filed by candidates for state and county office. Mr. Violette moved, and it was seconded and voted, to accept the following staff recommendations:

Name of Registrant	Penalty
Jack Libby	None
Gerard Conley	\$50

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Clarence Levesque
Douglas Lane
Catherine Bell

None
\$50 if not filed within 7 days of 2nd notice

Next, the Commission reviewed late semiannual filings covering the period July 1st, 1991 through December 31st, 1991. Reports for this period were due January 15th, 1992; the grace period expiring January 25th, 1992. For purposes of discussion, Mr. Violette moved to accept staff recommendations calling for a penalty waiver for the lateness of candidates Zachary Matthews and Andrew Adams. Mr. Cyr expressed the view that the recommendation was reasonable given the circumstances, but suggested that the Commission take into account Mr. Matthews' record of lateness, should further violations occur. A motion to accept the following recommendations was then seconded and carried unanimously:

Name of filer	Penalty
Zachary Matthews	None
Andrew Adam	Reduced to \$50 provided that he file within two weeks of a second notice; otherwise, the \$500 maximum penalty will apply

Next, Mr. Violette moved, and it was seconded and voted, to accept staff recommendations concerning late political action committee (PAC) reports for the November 6th, 1991 special election.

They are as follows:

Name of PAC	Penalty
MECPAC	\$10
Committee for Good Governance	\$25
Shapiro PAC	\$25

At 10:45, Mr. Cyr asked, and was granted permission, to be excused to fulfill another obligation. The Commission then continued its review of late special election reports.

Ms. Edie Damm, treasurer of Maine Truck PAC, was present and represented the PAC. She explained that the committee failed to file a timely pre-election report because officials believed they had satisfied reporting requirements in their quarterly filing. She then reminded members that the PAC had moved quickly to rectify their error. On these facts, and on the basis of staff's recommendation, it was moved, seconded and voted to assess no penalty.

There followed some discussion concerning staff recommending a \$250 penalty for the lateness of Nature Conservancy PAC's post-election report. Mr. Trafton expressed the view that a



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reduced penalty would be more in accord with the Commission's policy of assessing lesser fines for post-election reports.

He thus moved to assess a penalty of \$100. The motion was seconded and voted.

Next, Mr. Trafton asked, and was granted permission, to abstain from voting on the lateness of Fleet Bank PAC's report because he is a Director of Fleet Bank of Maine. It was moved, seconded, and voted to accept staff recommendations calling for a \$200 penalty against Fleet Bank PAC.

Mr. Violette then moved to accept staff recommendations that no penalty be imposed against National Association of Social Workers PAC. The motion was seconded and accepted without discussion.

Next, the Commission reviewed staff findings concerning the validity of the 1982 registration of Maine Right to Life Political Action Committee – State Candidate Fund (MRLCPAC) and the lateness of the PAC's reports.

Included on the agenda were Commission records revealing that MRLCPAC registered with the Commission in 1982. The PAC filed one annual report in 1986 on a Federal form. Otherwise, Commission files show no record of further filings until March 26th, 1992. M. Trafton moved that a penalty be assessed against MRLCPAC for its failure to file required reports from 1983 through 1992, and that staff be directed to calculate that penalty based on provisions set forth in 21-A MRSA Section 1062. Mr. Violette seconded the motion. In the ensuing discussion, Mr. Trafton pointed out that the PAC employs legal counsel to advise them; thus, he concluded, their ignorance of legal requirements cannot be excused. He then amended his motion as follows: the Commission determines that MRLC is a political action committee, the PAC's original registration is deemed valid, thus periodic reports were required to be filed from 1983 through January 1992.

Staff was then directed to recommend an appropriate penalty at the next meeting, taking into consideration activity conducted by the PAC since 1983. The amended motion was seconded and passed unanimously.

Next, Mr. McArthur removed from the table a matter dealing with the House Republican Fund (HRF). Mr. Violette moved to accept staff's recommendation concerning the status of the HRF.

Mr. Kenneth Cole was present and represented the Maine Republican Party (MRP). He claimed that the MRP was unaware of any staff recommendations or findings and that party officials understood this was to be an informal fact-finding administrative hearing.

Mr. Stokes inquired as to whether Mr. Cole's client had been made aware of the issue to be decided; i.e. whether HRF is a political action committee under the law. Mr. Cole responded that he did not know that; that he understood this was to be an informal inquiry in which the Commission would decide whether a formal hearing was warranted, and that he was unprepared to proceed with a formal hearing.



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Mr. Trafton then moved to -table the issue until the next meeting and Mr. Violette seconded the motion. The motion failed to carry.

Next, Mr. Cole inquired as to who had brought the matter forward. Ms. Canavan responded that Commission staff had initiated the review based on findings in reports filed with the Commission.

Mr. Cole was then granted permission to present evidence which he claimed would resolve the question of whether HRF was a PAC. He first directed members' attention to a March 3rd, 1992 letter in which House Minority Leader Walter Whitcomb stated that "a political action committee has not been established representing members of the House Republican Fund." Mr. Trafton then questioned the legality of that conclusion.

Mr. Whitcomb was present and submitted to questioning by Mr. Cole. In response to those questions, Mr. Whitcomb asserted that no funds had been solicited for any account in the House Minority Office during his term as leader; that the HRF is an entity under the Maine Republican Party, all funds of which are received and stamped by the Republican Party; that thank-you notes sent to all donors in the Prout's Neck event contained a postscript stating that the House Republican Fund is a fund-raising effort of the Maine Republican Party; and that donors were urged to make checks payable to the House Republican Fund/Maine Republican Party. Mr. James Nicholson, treasurer of the Maine Republican Party, was also present in response to Mr. Cole's questioning. Mr. Nicholson stated that money from the HRF was deposited with party headquarters in Augusta and that checks were endorsed by the Maine Republican Finance Committee and were under the control of the Maine Republican Party. Mr. Nicholson further stated that both the HRF and the MRP have the same Federal Tax I.D. number. Then, alluding to a special election candidate who reported receiving a HRF campaign contribution, Mr. Nicholson contended that the party cannot be held responsible if one particular candidate or donor does not report properly. Finally, Mr. Nicholson stated he has signed all checks for the HRF since the account was established in 1991, and that prior to that, Mary Clark Webster was the signatory.

Mr. Trafton then asked whether there is a checking account with the designation HRF. Mr. Cole answered in the affirmative -- that it was a sub-account of the Maine Republican Party.

Mr. Violette then withdrew his motion. Mr. Ezhaya moved that the Commission find that the HRF is, in fact, the Maine Republican Party and as such, is not governed by the PAC laws, nor is there any basis for a fine or other sanction. Mr. Ezhaya then asked to go on record as emphasizing that his motion in no way faults staff; that initiation of questions concerning the HRF was entirely appropriate; and that staff vigilance is fundamental to the mission of the Commission.

In the discussion that followed, Mr. Cyr expressed concern about the potential for the party exceeding prescribed contribution limitations if contributions are made under separate designations. Mr. Cole then assured members that party officials would conduct an audit of the



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account for purposes of ensuring that no violations had occurred and would report results back to the Commission within 30 days.

Mr. Ezhaya's motion was then seconded and voted.

Mr. Cyr suggested that the Commission reserve any penalties until after the audit and submission of report by the Republican Party.

The Commission then considered the request of Representative Patricia Stevens for an advisory opinion on the question of whether she would be in a conflict of interest situation if she participated in legislative proceedings involving the interests of a person associated with her husband's law firm. Mr. Morton made a motion that the Commission rule there would be no conflict of interest. The motion was seconded and passed unanimously, in arriving at its decision; the Commission reviewed a memorandum from Commission Counsel William Stokes.

Next, under routine business, Ms. Canavan reported on the status of Commission finances. She pointed out that budget cuts have resulted in the elimination of one full-time and one half-time staff position; thus, staff can now conduct only limited audits of reports.

Under old business, Mr. Stokes informed members that both John and William Harrigan have agreed to pay the reduced penalty of \$100 each, on installments.

The Commission then met in executive session to discuss developments in the McNally case.

Mr. Ezhaya suggested that a plaque be purchased to present to the outgoing chair. It was also suggested that a card of sympathy be sent to staff member Annette Jones on behalf of members. The next Commission meeting was scheduled for Thursday, August 27th, 1992.

The meeting was adjourned at 12 noon.

Respectfully submitted,

Marilyn Canavan, Director